

AN ORDINANCE OF THE COMMON COUNCIL  
OF THE CITY OF FORT WAYNE, INDIANA  
DETERMINING THE AMOUNT OF ASSISTANCE TO BE PAID  
TO THE FORT WAYNE URBAN ENTERPRISE ASSOCIATION, INC.  
BY ZONE BUSINESSES RECEIVING A CREDIT UNDER I.C. 4-4-6.1

**WHEREAS**, An enterprise zone (Zone) has been designated within the corporate boundaries of the City of Fort Wayne, Indiana, by the Indiana Enterprise Zone Board (Board), pursuant to I.C. 4-4-6.1-3, and redesignated as an enterprise zone by the Board in 1994. As a part of the process of redesignation of the Zone, the Common Council of the City of Fort Wayne, Indiana (Council) approved the redesignation application of the Urban Enterprise Association of Fort Wayne, Inc. (UEA), the entity, pursuant to I.C. 4-4-6.1-5 which oversees and coordinates development activities within the Zone. The redesignation application of the Zone incorporated a five-year strategic plan which presumed the receipt of current levels of assistance received by the UEA from Zone businesses receiving a credit, including, but not limited to, the inventory tax credit and the Lender Interest Income Tax Credit, under I.C. 4-4-6.1.

**WHEREAS**, House Enrolled Act No. 1084 enacted by the General Assembly of the State of Indiana, and effective as law July 1, 1996, requires the participation of a municipal legislative body such as the Council in certain activities of the UEA including the determination of the amount of assistance to be paid by any Zone business receiving a credit under I.C. 4-4-6.1 and the process of disqualifying a Zone business from eligibility for all credits and incentives available to Zone businesses.

**WHEREAS**, Pursuant to I.C. 4-4-6.1-4, a member of the Council serves as a member of the UEA Board of Directors. The Council recognizes the expertise of the UEA in administering programs within the Zone and recognizes and respects its experience in working with and securing the compliance of businesses within the Zone in connection with such programs.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
THE CITY OF FORT WAYNE, INDIANA AS FOLLOWS:**

**SECTION 1.** It is hereby determined that each Zone business shall by required to pay to the UEA as assistance to the UEA under I.C. 4-4-6.1-2, an annual amount equal to twenty percent of any credit received by such business under I.C. 4-4-6.1 for the preceding year.

It is the present intent of the Common Council that the level of assistance hereby established shall be in effect until December 31, 1998 or until such time as the Zone expires.

**SECTION 2.** The Council shall, upon the recommendation of the UEA, disqualify a Zone business from Zone benefits and incentives if that business has not assisted the UEA as provided herein.

**SECTION 3.** Any recommendation made by the UEA to the Council for the disqualification of a Zone business from Zone benefits and incentives (Disqualification) shall be accompanied by a report detailing efforts made by the UEA to resolve the issue of the nonpayment of assistance to the UEA. Prior to making its recommendation to the Council, the UEA must:

- (1) Contact the Zone business by an initial letter, certified mail, return receipt requested, which shall:
  - (A) outline Zone responsibilities with respect to the payment of assistance to the UEA, as provided herein;
  - (B) request a verified written summary of the Zone tax benefits and incentives the Zone business has received, and an explanation of the use of those benefits and incentives by the Zone business no later than fifteen (15) days from receipt of the initial letter; and
  - (C) request a meeting between the Zone business and the UEA at which Zone benefits, incentives, and responsibilities will be discussed by the UEA and the Zone business.
- (2) Offer to allow business to pay required assistance in installments;
- (3) Undertake such additional efforts the UEA determines useful in resolving the issue of nonpayment of assistance.

**SECTION 4.** Upon its receipt of the UEA's recommendations for Disqualification, the Council shall refer the same to the Council's attorney for preparation of an ordinance disqualifying a Zone business from eligibility for all credits and incentives available to Zone businesses (Disqualification Ordinance), a notice as provided in Section V and certified mail envelope for mailing the same. The Disqualification Ordinance shall set forth the facts on which the Disqualification is based.

**SECTION 5.** Upon the filing of the Disqualification Ordinance, the City Clerk shall send a copy of the same, by certified mail, return receipt requested, to the business at the address provided in the tax records of Allen County and to the businesses' Zone address, if that differs. The Clerk shall also enclose with the Disqualification Ordinance sent to the affected Zone business the following notice:

Be advised that the enclosed ordinance has been filed with the Common Council of the City of Fort Wayne to disqualify \_\_\_\_\_ (name of business) \_\_\_\_\_ from all credits and incentives available to Zone businesses. A public hearing will be held on this ordinance on \_\_\_\_\_ (date) \_\_\_\_\_ at \_\_\_\_\_ (time) \_\_\_\_\_ at \_\_\_\_\_ (location) \_\_\_\_\_. You are invited to appear at this public hearing and present testimony and evidence to the Fort Wayne Common Council as to why it should not pass this ordinance.

**SECTION 6.** Within five (5) days of the passage of such a Disqualifying Ordinance by the Council and its approval by the Mayor of the City of Fort Wayne,



1 the City Clerk shall provide a certified copy of the Disqualification Ordinance to the  
2 UEA who shall cause the same to be sent to the Indiana Enterprise Zone Board, the  
3 Indiana Board of Tax Commissioners, the Allen County Auditor, and the Indiana  
4 Department of Revenue within thirty (30) days of the passage of the Disqualification  
5 Ordinance.

6  
7 **SECTION 7.** Disqualification of a Zone business shall be effective beginning  
8 with the taxable year in which the Disqualification Ordinance is passed.

9 **SECTION VIII.** A Zone business disqualified pursuant to a Disqualification  
10 Ordinance shall be disqualified from Zone benefits and incentives for one (1) year  
11 following the date of Disqualification. A zone business disqualified pursuant to a  
12 Disqualification Ordinance may, no sooner than one (1) year following the date of  
13 Disqualification, petition the Council for reinstatement of benefits. A copy of the  
14 petition shall be forwarded to the UEA by the Common Council, for review and  
15 recommendation to the Council. In the event that the Council approves the petition,  
16 benefits may be reinstated retroactively to the date of the petition. In the event the  
17 Council does not approve the petition, the Zone business may submit another  
18 petition for reinstatement of benefits no sooner than one (1) year following the date  
19 of the denied petition. If the year following the date of Disqualification would be after  
20 the Zone expires under law, the Zone business will be disqualified for the previous  
21 year and be subject to repayment of any Zone benefits and incentives received in  
22 that year.

23 **SECTION 9.** The business that is the subject of a Disqualification  
24 Ordinance, and its authorized representatives, may review and examine the records  
25 of the UEA and Council concerning the recommendation of Disqualification prior to  
26 the public hearing on the Disqualification Ordinance. Pursuant to I.C. 4-4-6.1-2.5(b),  
27 the Zone businesses' tax records are confidential and not subject to public disclosure  
28 under I.C. 5-14-3 and the same shall retain their confidential nature notwithstanding  
29 the procedures described herein.

30 **SECTION 10.** If any one or more of the provisions contained in this  
31 ordinance shall for any reason be held to be invalid, illegal, or unenforceable in any  
32 respect, such invalidity, illegality or unenforceability shall not affect any other  
33 provision hereof, and this ordinance shall be construed as if such invalid, illegal or  
34 unenforceable provision was not contained therein.

35 **SECTION 11.** This ordinance shall be in full force and effect from and after  
36 its passage by the Common Council and approval by the Mayor.

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APPROVED AS TO FORM AND LEGALITY

J. Timothy McCauley  
J. Timothy McCauley, Corporation Counsel





*"Promoting Business &  
Neighborhood Investment"*

Fort Wayne  
Enterprise Center  
Urban Enterprise Association Inc.  
1830 Wayne Trace  
Fort Wayne, Indiana 46803  
219 - 422 - 2304  
Fax 219 - 424 - 0024

## **MEMORANDUM**

To: Fort Wayne City Council

From: Roy Hossler, Administrator  
Fort Wayne Urban Enterprise Association, Inc.

Subj: Ordinance to determine assistance to the Urban Enterprise Association

Date: July 26, 1996

Enterprise Zones have existed in Indiana since 1984. The Ft. Wayne zone was established at that time and is due to expire December 31, 1998, however, one additional five year extension after that time is allowed by State legislation. There are 18 zones in Indiana, all operating under the management of Urban Enterprise Associations (UEA).

The original State law that established enterprise zones intended that local programs be funded by businesses receiving tax incentives through the program. The funding mechanism employed by all zones has been to require zone businesses to pay a percentage of tax savings to the UEA. The UEA's use these funds to fulfill goals and objectives to create employment opportunities, fund crime prevention, provide for housing production, and a variety of other community and economic development initiatives.

The 1996 Indiana General Assembly has provided City Council the authority to determine the amount of assistance to be paid to the UEA. The attached ordinance reconfirms that 20% of tax savings received by zone businesses, which has been in effect since 1993, shall be paid to the UEA. Previously, this authority rested with the UEA Board of Directors. This amount is at the low end of the range in Indiana. The rates of the 18 Indiana zones range from 20-35%. Zone businesses have provided a contribution of tax savings to the UEA since 1988.

The ordinance includes due process procedures for making a determination that a zone business should be disqualified from receiving zone benefits. These procedures include a series of notices, meetings, and a hearing conducted by the UEA. Every attempt will be made to resolve the matter prior to a recommendation to City Council to disqualify a zone business from receiving benefits.



Admn. Appr. \_\_\_\_\_

DIGEST SHEET

TITLE OF ORDINANCE Determining Assistance to the Urban Enter. Assoc.

DEPARTMENT REQUESTING ORDINANCE Department of Economic Development

SYNOPSIS OF ORDINANCE Ordinance determining the amount of assistance to be paid to the Urban Enterprise Association by enterprise zone businesses receiving tax savings through the enterprise zone program.

EFFECT OF PASSAGE Enables the Urban Enterprise Association to administer community and economic development programs in the enterprise zone.

EFFECT OF NON-PASSAGE Inhibits the ability of the Urban Enterprise Association to have an effective program.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) Estimated annual income to the UEA is anticipated to be \$500,000. No additional funds sought from other City sources. Assures that the UEA receives its proper share from benefiting zone businesses.

ASSIGNED TO COMMITTEE (PRESIDENT) \_\_\_\_\_

Read the first time in full and on motion by Crawford,  
and duly adopted, read the second time by title and referred to the  
Committee on Finance (and the City Plan Commission  
for recommendation) and Public Hearing to be held after due legal notice, at  
the Common Council Council Conference Room 128, City-County Building, Fort  
Wayne,, Indiana, on \_\_\_\_\_, 19\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_  
M., E.S.T.

DATED: 8-13-96

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Crawford,  
and duly adopted, placed on its passage. PASSED lost  
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>9</u>			
BENDER	<u>✓</u>			
CRAWFORD	<u>✓</u>			
EDMONDS	<u>✓</u>			
HALL	<u>✓</u>			
HAYHURST	<u>✓</u>			
HENRY	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			

DATED: 8-27-96

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,

Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 8-59-96

on the 27th day of August, 1996

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Paul Helmke  
PRESIDENT

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the 28th day of August, 1996,  
at the hour of 12:00 o'clock P, M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 30th day of August,  
1996, at the hour of 2:30 o'clock P, M., E.S.T.

Paul Helmke  
PAUL HELMKE, MAYOR



BILL NO. S-96-08-06

REPORT OF THE COMMITTEE ON  
FINANCE  
THOMAS C. HENRY - JOHN N. CRAWFORD - CO-CHAIR  
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) of the Common Council  
of the City of Fort Wayne, Indiana determining the amount of assistance  
to be paid to the Fort Wayne Urban Enterprises Association, Inc. by  
Zone Businesses receiving a credit under I.C. 4-4-6.1

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

<i>John D. Crawford</i>	_____	_____	_____
<i>Thomas C. Henry</i>	_____	_____	_____
<i>John N. Crawford</i>	_____	_____	_____
<i>Robert E. Carver</i>	_____	_____	_____
<i>Richard Hall</i>	_____	_____	_____
<i>Eric M. ...</i>	_____	_____	_____
<i>B. ...</i>	_____	_____	_____
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DATED: 8-27-96

Sandra E. Kennedy  
City Clerk